IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION Nos.16374 and 17374 of 2004

WRIT PETITION NO.16374 OF 2004:

Between:

1 H.Shivakrishna, S/o Anjaiah,
R/o Jogipet Village, Andole Mandal, Medak District.
2 H.Harishanker Goud, S/o Kista Goud,
R/o Jogipet Village, Andole Mandal, Medak District.
3 Bandaru Ravi Kumar, S/o Galaiah,
R/o Jogipet Village, Andole Mandal, Medak District.
4 Kadluri Lakshmamma, W/o Ramulu,
R/o Jogipet Village, Andole Mandal, Medak District.
5 Jetla Narayana, S/o Shivaiah,
R/o Jogipet Village, Andole Mandal, Medak District.
6 Seri Manik Reddy, S/o Buchi Reddy,
R/o Jogipet Village, Andole Mandal, Medak District.
7 Almaipet Srinivas, S/o Sangaiah,
R/o Jogipet Village, Andole Mandal, Medak District.
8 V.B.Srinivas, S/o Rajaram,
R/o Jogipet Village, Andole Mandal, Medak District.
9 P.Sailoo, S/o P.Durgaiah,
R/o Jogipet Village, Andole Mandal, Medak District.
10 P.Gangamma, W/o P.Narsaiah,
R/o Jogipet Village, Andole Mandal, Medak District.

.....PETITIONERS

AND

1 The District Collector (PW) Medak District at Sanga Reddy.
2 The Gram Panchayat, Jogipet Village, Andole Mandal, Medak District rep.by its Panchayat Secretary.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ in the nature of Writ of Mandamus or any other appropriate Writ or Writs, Order or Direction, declaring the notice dated
10-09-1004 in Proc.No.948/2004 on the file of the 2nd respondent as illegal, arbitrary, without jurisdiction and violative of principles of natural justice and award costs.

WRIT PETITION NO : 17374 of 2004

Between:

Ch. Padmavathi, W/o. Late Ch. Vittal,
Jogipet Village, Andole Mandal, Medak District.

..... PETITIONER

AND

1 The District Collector (PW), Medak District at Sanga Reddy.
2 The Gram Panchayat, Jogipet Village, Andole Mandal, Medak District,rep by its Panchayat Secretary.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ in the nature of writ of Mandamus or any other appropriate Writ or Writs, Order or Direction, declaring the notice dt. 10-9-2004 in Proc. No. 948/04 on the file of the 2nd respondent as illegal, arbitrary, without jurisdiction and violative of Principles of natural justice and award costs.

Counsel for the Petitioners:MR.N.SRIDHAR REDDY

Counsel for the Respondent No.1 : GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondent No.2: Smt.Jyothieswar Gogineni

The Court made the following :

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COMMON ORDER:

The petitioners in these two writ petitions are the lessees in respect of the shops situated in Jogipet gramapanchayat. It is not in dispute that the said shops were constructed by the second respondent gramapanchayat and they were let out to the petitioners. The petitioners claim that they have been continuing in possession and carrying on petty business in the said shops. While so, the petitioners were served with the impugned notice dated 10.09.2004 issued by the second respondent gramapanchayat informing the petitioners that by virtue of the orders passed by the District Collector, Medak dated 18.08.2004, the lease in their favour has been cancelled and therefore, they shall vacate the shops, and handover the vacant possession immediately on receipt of the notice. Aggrieved by the said orders dated 10.09.2004, these writ petitions have been filed.

While directing rule nisi, this Court by order dated 13-09-2004 granted interim stay of eviction. Pursuant thereof, the petitioners are continuing in possession of the shops.

In the counter-affidavit filed by the second respondent Gramapanchayat, it is stated that the lease was granted long back in the year 1992 and initially the rent was fixed at the rate of Rs.400/- per month each vide proceedings dated 10.04.1992 and thereafter the petitioners were directed to pay the rent at the enhanced rates, but they refused to comply with the said direction. It is also stated that during the inspection of the District Panchayat Officer, it was found that the petitioners are not paying the rent at the enhanced rates and also there is no proper enhancement of tax since last so many years. In pursuance thereof, the District Collector (Panchayat

Wing) passed the order dated 18.08.2004 cancelling the lease itself. In compliance with the said order, the impugned orders dated 10-9-2004 were issued directing the petitioners to vacate the shops in question and handover the vacant possession forthwith.

Heard the learned counsel for the petitioners and the learned counsel appearing for the respondents and perused the material on record.

Though by virtue of the orders of the 1st respondent dated 18-08-2004, the lease in favour of the petitioners was cancelled, nothing has been placed before this Court to show that the petitioners were issued notice at any point of time before passing the said order to explain the allegation that they refused to pay the rents at the enhanced rates. Once, the lease in favour of the petitioners and their possession is admitted, the principles of natural justice require that they should be given an opportunity before terminating the lease on the allegation of non-payment of rent / enhanced rent or any other ground whatsoever. Since admittedly there was no prior opportunity to the petitioners to explain the allegations, the impugned action of the respondents being in violation of the principles of natural justice, cannot be sustained.

Accordingly, the order of 1st respondent dated 18-08-2004 insofar as the two petitioners herein are concerned as well as the consequential orders dated 10-09-2004 are set aside leaving it open to the respondents to take appropriate steps afresh in accordance with law, after affording due opportunity to the petitioners to explain the allegations.

The writ petitions are accordingly disposed of. No costs.

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27.01.2005

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To

1 The District Collector (PW), Medak District at Sanga Reddy.
2 The Panchayat Secretary, Gram Panchayat, Jogipet Village, Andole Mandal, Medak District.

3 2CCs to the G.P. for Gramapanchayat Raj and Rural Development, High Court Buildings, Hyderabad (OUT).

4 2CD copies.